HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.9521 of 2006

Dated:12.10.2006

Between:

Dappu Narasimha and others.

…Petitioner

and

The District Collector and others.

…Respondents.

HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.9521 of 2006

ORDER:

The petitioners herein seek a writ of mandamus declaring the action of the respondents in trying to evict them from agricultural land in Survey Nos.550, 551, 576, 577, 578 and 580 situated at Bowrampet Village of Quthbullapur Mandal in Ranga Reddy District, without due process of law, as arbitrary and illegal.

This Court while admitting the Writ Petition on 02.05.2006 passed interim orders directing the respondents not to dispossess the petitioners if they are in possession of the lands as mentioned in Annexure-A to the Writ Petition. The respondents have now filed vacate stay application. The matter itself is heard finally and is being disposed of by this order.

The brief fact of the matter is as follows. The petitioners were allegedly assigned small extents of lands in Survey Nos.550, 551, 576 to 578 and 580 of Bowrampet Village from out of the agricultural ceiling surplus land taken over by the Government under the provisions of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973. The petitioners were allegedly cultivating the land and their names were also entered in the relevant revenue records. Three days prior to filing of the Writ Petition, it is

alleged, the respondents came to the land and informed the petitioners that they will be dispossessed, as the land is required for Rajiv Gruha Kalpa Housing Scheme.

The Mandal Revenue Officer (MRO), Quthbullapur, filed a counter affidavit denying the petition averments. It is stated that the land admeasuring Acs.106.23 guntas in Survey Nos. 550, 551, 576 to 578 and 580 was assigned to 43 persons in 1966. However, 32 beneficiaries sold away land to the third parties in contravention of the provisions of the conditions of assignment. Therefore, the MRO initiated action under the provisions of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (for short 'the Act') and issued a notice to the purchasers in Form I under Rule 3 of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Rules, 1977 (for short 'the Rules'). Later necessary orders were passed under Section 4 of the Act resuming the land. The land was also resumed under a cover of Panchanama, which was subsequently allotted to the District Manager (Housing) for taking up Urban Poor Housing Scheme.

Learned Counsel for the petitioners submits that no notice was issued to the assignees nor resumption orders were served on them. Alternatively, he submits that even if the land is resumed under Section 4 of the Act, petitioners belong to Scheduled Caste and are landless poor persons, and therefore, under Section 4(1)(b) of the Act, they are entitled for restoration of the land resumed. **Per contra**, the learned Assistant Government Pleader for Revenue (Assignment) submits that out of 43 assignees, who were allotted the land in 1966, 11 assignees are still in possession of the land and the land resumed has already been handed over to the District Manager (Housing). He also submits that due process of law was followed before resuming the land and taking possession. He placed before this Court the proceedings of the MRO as well as the copies of the orders dated 11.12.1998 and Panchanama dated 15.12.1998, under which the MRO took possession of the lands.

As seen from the counter averments – which are not denied by filing reply affidavit; the land assigned to the petitioners was resumed in December 1998. Without disclosing this, the petitioners filed the present Writ Petition. A specific averment is made that the notice was issued to those persons who purchased assigned lands. This also is not denied. Therefore, insofar as the resumption of the lands for contravention of the conditions of assignment is concerned cannot be

faulted. The same was done in accordance with the provisions of the Act and the Rules. Nevertheless, as rightly pointed out by the learned Counsel for the petitioners, by virtue of the provisions of Section 4(1) (b) of the Act, whenever the assigned land is resumed for contravention of the conditions of the assignment or for transfer of assigned lands, such resumption of the land has to be restored to the assignees. Such restoration of the land to the assignee, however, is not required if the assignee or the legal heir of the assignee who is restored the land again transfers in contravention of the conditions of the assignment. Secondly, if it is not reasonably practicable to restore the land to the assignee, who transferred the land in contravention of conditions of assignment, there is no necessity to restore the land. These matters, however, have to be enquired into by the MRO. It would be, therefore, proper to give liberty to the petitioners to approach the MRO, Quthbullapur, and make appropriate applications within a period of two weeks from today to restore the land. If it is reasonably practicable, the MRO may consider such applications. Even otherwise, as the petitioners are landless poor persons, their cases for assignment of some other land in the same Village may be considered. The MRO should complete this exercise within a period of three months from the date of receipt of the applications from the petitioners.

The Writ Petition, with the above observations and directions, is accordingly disposed of. No costs.

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(V.V.S.RAO, J)

12.10.2006
vs